
TARGET POPULATIONS:

1220

NOT GUILTY BY REASON OF INSANITY [PC 1026]

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PRECOMMITMENT PROCESS

Definition [PC 25 (b)]

A person may be acquitted of a crime after entering a plea of Not Guilty by Reason of Insanity (NGI), if the court finds by a preponderance of evidence that the person was incapable of knowing or understanding the nature and quality of his or her act and¹ of distinguishing right from wrong at the time of the commission of the offense.

Order to Evaluate [PC 1026(b)]

When a person is found Not Guilty by Reason of Insanity, the court will order an evaluation for placement. The following documents should be submitted by the court:

- * Court order to evaluate;
- * Copy of the arrest report and formal complaint/information regarding the offense(s) charged;
- * Psychiatric/psychological reports; and
- * State summary of criminal history information ("Rap Sheet") [PC 11105.1 authorizes reception of this information].

The clerk of the court should be contacted if the above documents are not received.

Inpatient Requirement [PC 1601(a)]

Penal Code section 1601(a) requires a 180 day inpatient stay prior to outpatient treatment for those charged with particular crimes. For a detailed listing of the offenses, refer to **Eligibility** in the **ADMISSION PROCESS** section of this manual.

¹ Footnote: By court decision, interpreted to mean "or":
People vs Horn (1984) 158 C.A. 3d 1014.

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PRECOMMITMENT PROCESS

Placement Evaluation

The CONREP program will evaluate the person to determine the most appropriate treatment facility or site. The evaluation must encompass, at a minimum:

- * Review of legal/medical documents; and
- * Consideration of both clinical and security needs.

When considering a direct outpatient placement, the evaluation shall also encompass:

- * Personal interview; and
- * Collateral contact(s) with family and/or significant others (including the victim, if available).

Placement Recommendation

Justification

The recommendation for placement in a specific treatment facility or site must be accompanied by a justification for the placement that considers:

- * Applicability of PC 1601(a);
- * Need for a secure environment;
- * Estimated length of treatment;
- * Location of facility;
- * Availability of therapeutic resources;
- * State Hospital admission policies; and
- * Plan for payment of services if other than state hospital.

Placement Alternatives

Placement alternatives include:

- * State hospital;
- * Local public/private inpatient treatment facility; or
- * Community outpatient treatment, unless precluded by PC 1601 (a).

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PRECOMMITMENT PROCESS

Report to the Court

A written report signed by the Community Program Director is to be submitted to the court within 15 judicial days of the court order to evaluate. The report must include:

- * Current legal status [PC 1026] and underlying criminal charge;
- * Date and place of contact(s);
- * Person(s) contacted;
- * Current mental status;
- * Assessment of need for medication;
- * Recommendation for placement; and
- * Suggested focus of treatment, including:
 1. Appropriate management of impulsive behaviors;
 2. Assessment of need for substance abuse treatment; and
 3. Patient understanding of his/her mental disorder, including acceptance of medication.

Court Order for Commitment

After considering the CONREP placement recommendation, the court determines the most appropriate treatment site and formally commits the individual to:

- * State hospital (See **STATE HOSPITAL SERVICES** section of this manual for DMH hospital placement policies);
- * Local public/private inpatient treatment facility; or
- * Community outpatient treatment.

Copies of the court orders for commitment should be sent to the Community Program Director and filed in the patient's chart.

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COMMITMENT TO TREATMENT

State Hospital

Conditions for Placement

A person is committed to a state hospital under these circumstances:

- * An underlying criminal charge requires a minimum of 180 days in a locked setting [PC 1601 (a)]; or
- * The court determines that the person needs intensive, long-term treatment in a secure environment, not available in the community.

State Hospital Assignment

Atascadero and Patton State Hospitals are the primary state inpatient facilities for judicially committed patients. The specific policies which determine state hospital placement are described under the **STATE HOSPITAL SERVICES** section of this manual.

Local Inpatient Treatment

Conditions for Placement

A person may be committed to a local public or private inpatient treatment facility approved by the Community Program Director. The means of funding local inpatient treatment should be assessed prior to making such a recommendation.

Types of Facilities

Local inpatient treatment facilities must possess a current valid license that permits the locked treatment of persons with mental disorders (Health and Safety Code Section 1250). These facilities include:

- * Locked acute psychiatric facility;
- * Locked skilled nursing facility; or
- * Locked intermediate-care facility.

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COMMITMENT TO TREATMENT

Outpatient Treatment

Individuals may be placed directly into an outpatient treatment program under these circumstances:

- * The court determines that the required treatment is available in such a program;
- * The person is not a danger to the health and safety of him/herself or others; and
- * The person does not require placement in a secure setting or is not prohibited from outpatient placement [PC 1601 (a)].

The criteria for direct placement on outpatient status is contained in PC 1600. The referral process by which a person on inpatient status is committed to outpatient community treatment is described in more detail in the **ADMISSION PROCESS** section of this manual.

Transfer of Treatment [PC 1026(c)]

Upon the recommendation of the Medical Director of the state hospital, the court may order the transfer of persons committed to a state hospital to a public/private inpatient treatment facility approved by the Community Program Director.

The court may also order the transfer of persons committed to an inpatient treatment facility to a state hospital or other inpatient treatment facility upon the written recommendation of the Community Program Director.

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COMMITMENT TO TREATMENT

Progress Reports [PC 1026(f), PC 1605(d)]

Within six months of commitment to an inpatient facility, and every six months thereafter, the Medical Director of the facility will submit a written report to the court and to the appropriate CONREP program.

Following commitment to outpatient status, pursuant to PC 1605(d), quarterly progress reports are due to the court regarding the status and progress of the patient.

All reports are filed in the patient's chart and must document the status and progress of the patient. For more detailed information on the contents of these reports, please refer to **Quarterly Progress Reports** in the **REPORTS AND ANNUAL REVIEW PROCESS** section of this manual.

Annual Review

Once a patient has been committed to outpatient status, PC 1606 requires an annual court report and renewal of that commitment. Please refer to the **REPORTS AND ANNUAL REVIEW PROCESS** section of this manual for detailed information on this process.

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RESTORATION OF SANITY [PC 1026.2]

Application for Release

Grounds

A patient committed to inpatient or outpatient treatment may apply for release upon the ground that sanity has been restored. Application is made to the Superior Court of commitment.

Time Requirements

A hearing on an application for release can be held after a patient has been confined or placed on outpatient status for at least 180 days from the date of commitment.

Filing the Application

The application may be initiated by the:

- * Medical Director of the state hospital or other treatment facility where the patient is committed;
- * Community Program Director where the patient is on outpatient status; or
- * Patient.

Program Recommendations

The court will not act on applications until it obtains written recommendations from the Medical Director of the state hospital or other treatment facility or the Community Program Director where the patient is on outpatient status.

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RESTORATION OF SANITY [PC 1026.2]

Placement Pending Court Hearing

Designation of Facility

Pending the court hearing on an application for restoration of sanity, a patient shall be detained in a facility within a reasonable distance from the court. The facility need not be approved for LPS 72 hour treatment and evaluation (WIC 5150).

The Community Program Director designates an appropriate facility after reviewing a summary of the patient's current treatment program submitted by the Medical Director of the inpatient treatment facility. This should be done on a form **MH 5629, Treatment Recommendation for PC 1026.2 Release**.

County Jails

County jails may not be designated unless the following services are provided:

- * Continuation of the program of treatment;
- * Adequate security provision; and
- * Minimal (to the extent possible) interference with the patient's treatment program.

Pre-Restoration Hearing

Purpose

Upon receiving an application for release, the court holds a hearing to determine whether the patient would no longer be a danger to the health and safety of others, including him/herself, if under supervision and treatment in the community. The court notifies the Community Program Director of the date and site of the hearing.

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RESTORATION TO SANITY [PC 1026.2]

Pre-Restoration Hearing (cont.)

Outpatient Placement

If the court determines that the patient will not be a danger to the health and safety of others if under supervision and treatment in the community, it commits the patient to an appropriate forensic conditional release program for a minimum of one year.

CONREP Recommendation

The Community Program Director must recommend, in writing, an appropriate local forensic conditional release program that will supervise and treat the applicant. All or a substantial portion of the program must include outpatient treatment and supervision. The local mental health program is the Forensic Conditional Release Program.

If the court does not accept the Community Program Director's recommendation, it shall specify the reason(s) for its order on the court record.

Placement Arrangements

The Community Program Director must make the necessary arrangements and place the patient in the recommended forensic conditional release program within twenty-one (21) days after receiving the notice of the court findings. The forensic program must provide treatment and supervision as specified in the court approved plan unless the court accepts good cause for not doing so.

Inpatient Placement

If the court declines to place a person in a forensic conditional release program, the patient continues placement in a state hospital or other inpatient treatment facility.

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RESTORATION TO SANITY [PC 1026.2]

Subsequent Application for Release

No new application for release may be filed by or on behalf of the patient for at least one year from the date of the initial denial.

Sanity Trial

Mandatory Year of Outpatient Treatment

The court retains jurisdiction over the person placed in a court-approved program. After the patient has successfully completed one year in the appropriate forensic conditional release program, the court will conduct a trial to determine if sanity has been restored.

Recommendation for Restoration Before One Year

If at any time during the one year of supervision and treatment, the Community Program Director decides that the patient is no longer a danger to the health and safety of others due to a mental defect, disease or disorder, he/she shall make a recommendation to the court for restoration of sanity and unconditional release.

Sanity Restored

Sanity is restored when the court determines that the patient is no longer a danger to the health and safety of self or others as a result of a mental defect, disease or disorder. When the court restores a person's sanity, it officially terminates all related judicial proceedings and discharges the person from the Community Program Director's supervision.

Sanity Not Restored

When a trial on restoration of sanity does not result in a judicial finding that sanity is restored, the patient remains on outpatient status and may not reapply for a restoration until one year from the date of the denial.

If the patient is on inpatient status at the time of the hearing, the court may place the applicant on outpatient status in a program approved by the Community Program Director if the patient meets the requirements for such placement [PC 1603].

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EXTENSION OF COMMITMENT [PC 1026.5]

Maximum Term of Commitment

The court must state the maximum term of commitment when it commits a person to a facility for treatment. The "maximum term of commitment" is the longest term of imprisonment that could have been imposed had the person been convicted of the offense(s) charged. The person may not be kept in actual custody longer than the maximum term of commitment, except when the court approves an extension of commitment.

Extension Process

Criteria

Under conditions specified below, the court may extend a person's maximum term of commitment for two years. Ninety (90) days prior to the commitment's expiration, the prosecuting attorney files a petition seeking an extension of commitment with the superior court which issued the original commitment.

This may be done, however, only when the commitment charge was a felony and the person, by reason of mental disease, defect, or disorder represents a substantial danger of physical harm to others.

CONREP Responsibility

No later than 180 days prior to the expiration of the maximum term of commitment, the Medical Director of the inpatient facility or the Community Program Director must have submitted to the prosecuting attorney, a written opinion as to whether the person meets the extension criteria.

Additional Extensions

A person on an extended commitment may be extended as many times as is justified by application of the "substantial danger" criterion cited above.